

1 **HOUSE JOINT RESOLUTION NO. 33**

2 (By Delegates Overington, Duke, Cowles, Householder,
3 J. Miller, Kump, Rowan and Howell)

4
5 [Introduced January 28, 2011; referred to the Committee on
6 Constitutional Revision then Finance.]

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10 Proposing an amendment to the Constitution of the State of West
11 Virginia, amending section one-b, article X thereof, relating
12 to homestead exemption increase; numbering and designating
13 such proposed amendment; and providing a summarized statement
14 of the purpose of such proposed amendment.

15 *Resolved by the Legislature of West Virginia, two thirds of*
16 *the members elected to each house agreeing thereto:*

17 That the question of ratification or rejection of an amendment
18 to the Constitution of the State of West Virginia be submitted to
19 the voters of the state at the next general election to be held in
20 the year 2012, which proposed amendment is that section one-b,
21 article X thereof, be amended to read as follows:

22 **ARTICLE X. TAXATION AND FINANCE.**

23 **§1b. Property tax limitation and homestead exemption amendment of**
24 **1982.**

25 Ad valorem property taxation shall be in accordance with this

1 section and other applicable provisions of this article not
2 inconsistent with this section.

3 *Subsection A -- Value; Rate of Assessment; Exceptions*

4 Notwithstanding any other provisions of this Constitution and
5 except as otherwise provided in this section, all property subject
6 to ad valorem taxation shall be assessed at sixty percent of its
7 value, as directed to be ascertained in this section, except that
8 the Legislature may from time to time, by general law agreed to by
9 two thirds of the members elected to each house, establish a higher
10 percentage for the purposes of this paragraph, which percentage
11 shall be uniform as to all classes of property defined in section
12 one of this article, but not more than one hundred percent of ~~such~~
13 the value.

14 ~~Notwithstanding the foregoing, for the first day of July, one~~
15 ~~thousand nine hundred eighty-two, and the first day of July of each~~
16 ~~year thereafter until the values may be fixed as a result of the~~
17 ~~first statewide reappraisal hereinafter required, assessments shall~~
18 ~~be made under the provisions of current statutory law, which is~~
19 ~~hereby validated for such purpose until and unless amended by the~~
20 ~~Legislature. Assessment and taxation in accord with this section~~
21 ~~shall be deemed to be equal and uniform for all purposes.~~

22 *Subsection B -- Determination of Value*

23 The Legislature shall provide by general law for periodic
24 statewide reappraisal of all property, which reappraisal shall be

1 related for all property to a specified base year which, as to each
2 ~~such~~ reappraisal, shall be uniform for each appraisal for all
3 classes of property and all counties. In ~~such~~ the law, the
4 Legislature shall provide for consideration of: (1) Trends in
5 market values over a fixed period of years prior to the base year;
6 (2) the location of the property; and (3) ~~such~~ other factors and
7 methods as it may determine: *Provided*, That with respect to
8 reappraisal of all property upon the base year of 1980, ~~such~~
9 reappraisals are deemed to be valid and in compliance with this
10 section: *Provided, however*, That with respect to farm property, as
11 defined from time to time by the Legislature by general law, the
12 determination of value shall be according to its fair and
13 reasonable value for farming purposes, as may be defined by general
14 law.

15 The results of each statewide appraisal shall upon completion
16 be certified and published and errors ~~therein~~ in the appraisal may
17 be corrected, all as provided by general law. ~~The first such~~
18 ~~statewide appraisal shall be completed, certified and published on~~
19 ~~or before the thirty-first day of March, one thousand nine hundred~~
20 ~~eighty-five, for use when directed by the Legislature.~~

21 The Legislature shall further prescribe by general law the
22 manner in which each statewide reappraisal shall be employed to
23 establish the value of the various separately assessed parcels or
24 interests in parcels of real property and various items of personal

1 property subject to ad valorem property taxation, the methods by
 2 which increases and reductions in value subsequent to the base year
 3 of each statewide reappraisal shall be ascertained, and require the
 4 enforcement ~~thereof~~ of the reappraisal.

5 *Subsection C -- General Homestead Exemption*

6 Notwithstanding any other provisions of this Constitution to
 7 the contrary, the first \$20,000 of assessed valuation of any real
 8 property, or of personal property in the form of a mobile home,
 9 used exclusively for residential purposes and occupied by the owner
 10 or one of the owners thereof as his or her residence who is a
 11 citizen of this state and who is sixty-five years of age or older
 12 or is permanently and totally disabled as that term may be defined
 13 by the Legislature, ~~shall be~~ is exempt from ad valorem property
 14 taxation, subject to ~~such~~ the requirements, limitations and
 15 conditions ~~as shall be~~ prescribed by general law. However, at its
 16 option each county has the authority to increase this exemption up
 17 to \$50,000 or to an amount equal to fifty percent of the average
 18 property value in that county, whichever is greater.

19 Notwithstanding any other provision of this Constitution to
 20 the contrary, the Legislature ~~shall have~~ has the authority to
 21 provide by general law for an exemption from ad valorem property
 22 taxation ~~in an amount not to exceed the first twenty thousand~~
 23 ~~dollars~~ of value of any real property, or of personal property in
 24 the form of a mobile home, used exclusively for residential

1 purposes and occupied by the owner or one of the owners thereof as
 2 his or her residence who is a citizen of this state, and who is
 3 under sixty-five years of age and not totally and permanently
 4 disabled: *Provided*, That upon enactment of ~~such~~ the general law,
 5 this exemption ~~shall only apply to such~~ only applies to the
 6 property in any county in which the property was appraised at its
 7 value as of January 1, 1980, or ~~thereafter~~ after that, as
 8 determined by the Legislature, and this exemption shall be phased
 9 in over ~~such a period of time~~ not to exceed five years from the
 10 date ~~such~~ the property was so appraised, or ~~such a~~ longer time as
 11 the Legislature may determine by general law: *Provided, however*,
 12 That in no event ~~shall~~ may any one person and his or her spouse, or
 13 one homestead be entitled to more than one exemption under these
 14 provisions: *Provided further*, That these provisions are subject to
 15 ~~such~~ the requirements, limitations and conditions ~~as shall be~~
 16 prescribed by general law.

17 The Legislature ~~shall have~~ has the authority to provide by
 18 general law for property tax relief to citizens of this state who
 19 are tenants of residential or farm property.

20 *Subsection D -- Additional Limitations on Value*

21 ~~With respect to the first statewide reappraisal, pursuant to~~
 22 ~~this section, the resulting increase in value in each and every~~
 23 ~~parcel of land or interest therein and various items of personal~~
 24 ~~property subject to ad valorem property taxation over and above the~~

1 ~~previously assessed value shall be allocated over a period of ten~~
2 ~~years in equal amounts annually.~~

3 The Legislature may by general law ~~also~~ provide for the
4 phasing in of any ~~subsequent~~ statewide reappraisal of property.

5 *Subsection E -- Levies for Free Schools*

6 In equalizing the support of free schools provided by state
7 and local taxes, the Legislature may require that the local school
8 districts levy all or any portion of the maximum levies allowed
9 under section one of this article which has been allocated to ~~such~~
10 the local school districts.

11 Within the limits of the maximum levies permitted for excess
12 levies for schools or better schools in sections one and ten of
13 this article, the Legislature may, in lieu of the exercise of such
14 powers by the local school districts as heretofore provided, submit
15 to the voters, by general law, a statewide excess levy, and if it
16 ~~be~~ is approved by the required number of voters, impose ~~such~~ the
17 levy, subject however to all the limitations and requirements for
18 the approval of ~~such~~ the levies as in the case of a district levy.

19 The law submitting the question to the voters shall provide, upon
20 approval of the levy by the voters, for the assumption of the
21 obligation of any local excess levies for schools then in force
22 theretofore authorized by the voters of a local taxing unit to the
23 extent of ~~such~~ the excess levies imposed by the state and so as to
24 avoid double taxation of those local districts. The Legislature

1 may also by general law reserve to the school districts ~~such~~ the
 2 portions of the power to lay authorized excess levies as it ~~may~~
 3 ~~deem~~ considers appropriate to enable local school districts to
 4 provide educational services which are not required to be furnished
 5 or supported by the state. If a statewide excess levy for the
 6 support of free schools is approved by the required majority, the
 7 revenue from ~~such a~~ the statewide excess levy shall be deposited in
 8 the State Treasury and be allocated first for the local obligations
 9 assumed and ~~thereafter~~ after that for ~~such~~ part of the state effort
 10 to support free schools, by appropriation or as the law submitting
 11 the levy to the voters shall require, as the case may be.

12 The defeat of any ~~such~~ proposed statewide excess levy for
 13 school purposes ~~shall~~ does not in any way abrogate or impair any
 14 local existing excess levy for ~~such~~ that purpose nor prevent the
 15 adoption of any future local excess levy for ~~such~~ that purpose.

16 *Subsection F -- Implementation*

17 In the event of any inconsistency between any of the
 18 provisions of this section and other provisions of this
 19 Constitution, the provisions of this section ~~shall~~ prevail. The
 20 Legislature ~~shall have~~ has plenary power to provide by general law
 21 for the equitable application of this article. ~~and, as to taxes to~~
 22 ~~be assessed prior to the first statewide reappraisal, to make such~~
 23 ~~laws retroactive to the first day of July, one thousand nine~~
 24 ~~hundred eighty-two, or thereafter~~

1 *Resolved further,* That in accordance with the provisions of
2 article eleven, chapter three of the Code of West Virginia, 1931,
3 as amended, such proposed amendment is hereby numbered "Amendment
4 No. 1" and designated as the "Homestead Exemption Increase
5 Amendment" and the purpose of the proposed amendment is summarized
6 as follows: "The purpose of this amendment is to allow each county
7 to increase the homestead exemption from \$20,000 to an amount not
8 to exceed \$50,000 or an amount equal to fifty percent of the
9 average property value in the county, whichever is greater."

NOTE: The purpose of this amendment is to allow each county to increase the homestead exemption from \$20,000 to an amount not to exceed \$50,000 or an amount equal to fifty percent of the average property value in the county, whichever is greater.

Strike-throughs indicate language that would be stricken from the present Constitution, and underscoring indicates new language that would be added.